IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Bail Appl..No. 5045 of 2007()

CRIME NO.213/07 OF ERUMAPPETTY POLICE STATION

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: APPLICANTS/ACCUSED

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1. MARY, AGED 65 YEARS, W/O. OUSEPH, CHEERAMBAN HOUSE, MANGAD, KOTTAPPURAM, ERUMAPPETTY.

2. GEORGE C.G., AGED 33 YEARS, S/O. OUSEPH, CHEERAMBAN HOUSE, MANGAD, KOTTAPPURAM, ERUMAPPETTY.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT - STATE

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5045 of 2007

Dated this the 21st day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 2 and 1 respectively in a crime registered for offences punishable, inter alia, under Section 498 A r/w 306 I.P.C. The crux of the allegations against the petitioners is that they were guilty of matrimonial cruelty of the culpable variety against the deceased, who is the wife of the 1st accused/2nd petitioner and the daughter in law of the 1st petitioner/2nd accused. The crime was initially registered under the caption `woman missing'. Later it was found that the deceased had jumped into a pond near the house of the petitioners and had committed suicide.

2. According to the prosecution, the petitioners were guilty of matrimonial cruelty against the deceased. When the crime was registered under the caption `woman missing', the 2nd petitioner was questioned by the police and there is a categoric statement therein that the 2nd petitioner husband had assaulted the deceased on that night compelling her to go away from the house on that night. The postmortem report also shows indications of physical violence on the person of the deceased.

3. The learned counsel for the petitioners prays that the petitioners may now be granted anticipatory bail. The learned Public Prosecutor does not raise any objections against the grant of anticipatory bail to the 1st petitioner/2nd accused, but opposes the application vehemently in so far as the prayer of the 2nd petitioner/1st accused is concerned. The case diary has been placed before me for my perusal. I have perused the case diary. I reckon the stand taken by the learned Public Prosecutor as an informed and reasonable one. Sufficient indications to suggest complicity of the 1st accused/2nd petitioner/husband are definitely available in the case diary. I am not persuaded to agree that the 2nd petitioner deserves to be granted anticipatory bail. So far as the 1st petitioner/2nd accused/mother in law, a woman aged about 65 years is concerned, I am satisfied that anticipatory bail can be granted to her.

4. In the result, the Bail Application is, allowed in part.

a) The petition in so far as it relates to the 2nd petitioner/1st accused/husband of the deceased is dismissed. Needless to say that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

b) The following directions are issued in favour of the 1st petitioner/2nd accused/mother in law under Section 438 Cr.P.C.

i) The 1st petitioner shall appear before the learned Magistrate at 11 a.m on 30.08.2007. She shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The 1st petitioner shall make herself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 31.08.2007 and 01.09.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the 1st petitioner shall make herself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the 1st petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with her in accordance with law as if those directions were not issued at all;

iv) If the 1st petitioner were arrested prior to her surrender on 30.08.07 as directed in clause (1) above, he shall be released from

custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 30.08.07.

(R.BASANT, JUDGE)

rtr/-